



**Washington State Supreme Court
Commission on Children in Foster Care
May 15, 2017
Meeting Minutes**

Members Present

Justice Bobbe Bridge (ret.), Washington State Supreme Court, Commission Co-Chair
Ms. Jennifer Strus, Assistant Secretary, Children's Administration, Commission Co-Chair
Mr. Mike Canfield, Co-Chair of Foster Parents Association of Washington State
Judge Kitty-Ann van Doorninck, Superior Court Judges' Association (designee for Judge Michael Downes)
Mr. Sabian Hart, Foster Youth in Care Representative
Ms. Kristy Healing, NW Intertribal Council
Ms. Jeannie Kee, Foster Youth Alumni Representative
Ms. Jill Malat, Office of Civil Legal Aid (designee for Jim Bamberger)
Ms. Tonia Morrison, Parent Advocate Representative
Mr. Ryan Murrey, Executive Director, Washington State CASA
Ms. Joanne Moore, Washington State Office of Public Defense
Senator Steve O'Ban, Washington State Senate
Ms. Carrie Wayno, Attorney General's Office (designee for Bob Ferguson)

Members Not Present

Rep. Ruth Kagi, Washington State House of Representatives
Ms. Jeannie Kee, Foster Youth Alumni Representative
Ms. Jess Lewis, Office of the Superintendent of Public Instruction (designee for Chris Reykdal)

Guests

Ms. Lauren Frederick, The Mockingbird Society
Ms. Jessica Hanna, Foster Parents Association of Washington State
Ms. Laurie Lippold, Partners for Our Children
Dr. Carl McCurley, Washington State Center for Court Research

Staff Present

Ms. Melanie Nadon, CCFC Staff Intern, Center for Children & Youth Justice
Ms. Nichole Kloepfer, AOC

Call to Order

Justice Bridge called the meeting to order at 1:06pm. She welcomed all Commission members and guests and invited everyone to introduce themselves.

DSHS/Children's Administration Updates

Assistant Secretary Strus began the meeting with an update from Children's Administration. She began by discussing the status of HB 1661, which creates the Department of Children, Youth and Families. She explained that the legislation has passed in the house and is still currently in Senator O'Ban's committee. She noted that, while supporters are still hopeful of its passing, it would not be expected to pass until the end of the session. In the meantime, CA has planned meetings with the Department of Early Learning to discuss the possible transition.

Asst. Secretary Strus also discussed the general state of the Department, noting that the Department is currently fully staffed but that hotel stays for youth are up. She also outlined the upcoming national Child and Family Services Review (CFSR). This review has a number of measures put together by the Federal government that each state is judged on. Asst. Secretary Strus explained that while she expects Washington to do reasonably well on most measures, the Department is anticipating doing poorly on the permanency measure. In response to this concern, the Department has been doing two things: 1) planning permanency summits in a few counties, including Grant County and Clark County, and 2) working with Casey Family Programs on Rapid Permanency Reviews in a few pilot counties, including Pierce County and Cowlitz County.

The Rapid Permanency Reviews have given insight into both the internal and external barriers to achieving permanency. One of the primary issues the Reviews have found is that many cases are unable to implement a parenting plan when it is necessary to do so. Ms. Moore asked whether there was a program in place that could help with the parenting plan issue. Judge van Doornick explained that there is a program, but that parenting plans are not the sole issue covered by the program. Ms. Morrison also explained that she had seen some programs using an LLP to specifically help families with parenting plans and Ms. Healing noted tribal courts have a similar model. Justice Bridge said that the parenting plan issue sounds like one that the Commission should talk more about specifically at a future meeting.

2016 Dependency and Timeliness Report

Dr. Carl McCurley, Director of the Washington State Center for Court Research (WSCCR), presented the findings from the 2016 Dependency and Timeliness Report. He explained that the report is a vehicle for providing transparency and accountability to the legislature with a high level of detail on particular cases. He discussed many findings from the report, including the dependency rates and the lengths of cases and dependency processes. To see the details of the Report, please visit the Publications page of the WSCCR website and download the Report.

Dr. McCurley broke down his analysis by county and specifically noted significant geographic variance across most measures. Dr. McCurley explained that he and the research team were hoping to understand more of what drives the regional differences in these findings in the future. Ms. Malat asked if the team had considered poverty rates as a possible explanation for the

regional differences. Dr. McCurley responded that they had not yet been able to break the analysis down by poverty rates but that they hoped to have the capacity to do so in the future.

In further discussing the timeliness of permanency cases, Dr. McCurley also noted a few key relationships between timeliness and outcomes. He explained that timely termination of parental rights leads to quicker permanency. But, he also noted that in regions where cases are pushed out very quickly, there are higher recidivism rates and so it is important to accurately define the timeliness for each outcome and process. Justice Bridge noted that the Commission had previously had a workgroup that worked on defining timeliness issues, including what “expedited” truly means in the context of dependency/appeals. Ms. Moore explained that the Court of Appeals was working on a similar workgroup. Justice Bridge asked if the Commission would be interested in reconvening the workgroup. Ms. Wayno said she would be interested and Dr. McCurley said that he believed that Mr. Matt Orme would also be interested in being involved.

ICWA Tribal Rights and Pro Hac Vice Rules

Ms. Healing of the Northwest Intertribal Council shared with the Commission a proposed change to Washington State Court Rules. She explained that the proposed changes stem from shortfalls in protections of the Indian Child Welfare Act (ICWA). The act allows the Indian custodian of the child and the Indian child’s tribe to intervene at any point in a State court proceeding for the foster care placement of, or termination of parent rights to, an Indian child. Each tribe typically designates a representative when intervening in these proceedings and the representatives serve a number of roles, sometimes as tribal Chairman, social workers, or in-house attorneys.

However, Ms. Healing explained that many of these representatives are being denied their right to intervene due to established law defining “pro se” and “pro hac vice” representation. There is established law that corporations cannot be represented “pro se”, or without an attorney. While Tribes are not corporations, some courts have been extending this rule to tribes and have been requiring that they have an attorney, which many tribes cannot afford. There are also issues with pro hac vice requirements that mandate that cases must have a state licensed attorney as the attorney of record on the case. This requirement means that tribal attorneys cannot represent an ICWA case in another state without paying fees to be licensed in that state.

There are some states which have largely resolved these two problems, including Nevada, which had a Supreme Court case ruling in favor of the ICWA and tribal rights to intervene, and Oregon, which passed a rule stating that no association with a local attorney is necessary for ICWA representation and that no licensing fee can be charged to an attorney representative.

Ms. Healing proposed that Washington State essentially pass the same rule changes that Oregon has passed. Justice Bridge asked what the vehicle for this change should be, noting that passing the change through the courts would only take 9 votes and could be feasible. Ms. Wayno recommended that the Commission be the vehicle for the proposal. Justice Bridge agreed and requested that Ms. Healing return to the Commission with a formal proposal.

Mockingbird Legislative Agenda Progress & 100-Day Challenges

Mr. Sabian Hart and Ms. Lauren Frederick provided an update to the Commission on the status of their advocacy agenda for this session as well as an update on Mockingbird's work on the 100-Day Challenges.

Mr. Hart began by sharing that the drivers' licensing bill (HB 1808) had passed, as did the bill regarding school credit transfer/accrual for foster and homeless youth (SB 5241), which had unanimous support from both the House and the Senate. Mr. Hart also noted that the other remaining priorities, including supporting the Mockingbird Family Model and providing legal counsel to all children and youth in foster care, looked positive and both were in the base budgets. He also discussed the non-legislative priority, comprehensive sex education for foster youth. Justice Bridge noted that the Normalcy Workgroup had agreed to take on this issue and that they would update the Commission on the progress for this issue. Mr. Hart also briefly discussed some emerging topics for next year's legislative priorities. These topics included housing, cultural competency in foster care, and increased support for social workers.

Ms. Frederick then discussed the 100-Day Challenges, which are an initiative put forward by A Way Home Washington (AWHW). The goal of the initiative is to prevent and end youth homelessness with targeted advocacy during a 100-day period. Because of the crossover of youth in foster care and homeless youth, Mockingbird has been supporting AWHW's efforts. Mockingbird youth have been serving on workgroups, as advisors, and helping with outreach efforts for the initiative.

Ms. Frederick and Mr. Hart then opened the floor for questions. Ms. Lippold asked about a concern with foster parents paying for car insurance. Specifically, Ms. Lippold explained that there was an issue with foster parents agreeing to pay for a youth's car insurance and then still being liable to pay that insurance even if the youth is no longer in their care. Ms. Frederick explained that this situation was certainly not the intention of the bill and that Mockingbird would be pursuing a clarification. Justice Bridge suggested that the Insurance Commissioner, Mike Kreidler, be contacted about the concern.

Mr. Canfield raised concerns about youth homelessness and the inability hold youth to prevent them from running away and thus putting themselves in danger. He explained that there are not enough secure CRCs to hold homeless youth who are picked up by police for minor issues like shoplifting and resulting in their being dropped off at shelters. Those youth often leave shelters and return to the streets, becoming exposed to further dangerous situations. Mr. Hart responded that Mockingbird youth still supported their policy priority of ending youth detention for status offenses. However, he said that it was reasonable to consider housing youth securely in other parts of detention facilities, fully separated from youth who are detained for other crimes, when secure CRCs are not an option.

Ms. Frederick agreed with Mr. Hart's sentiment and further explained to Mr. Canfield that Mockingbird is working towards a partnership with the Office of Homeless Youth to provide a feasible solution for Mr. Canfield's concerns. Justice Bridge noted that the Becca Task Force

should also be involved in these discussions because the Task Force has also been working towards a solution to this problem and similar concerns.

SB 5890 – Foster Care and Adoption Support

Senator Steve O’Ban spoke about SB 5890, a bill to increase foster care and adoption support in the state. Senator O’Ban explained that the state is facing a critical problem of retaining and recruiting foster parents and effectively supporting foster youth. He sponsored SB 5890 in response to these problems. The bill has several provisions, including expanding case aids for new foster care families, permitting expedited licensing available for previous families (prior to the completion of the home study), paying for legal services for parenting plans (or granting the authority to caseworkers to pay for such services), increasing the cap for adoption funds for older children, extending eligibility to the College Bound program, and repealing the TANF means test for non-parent caregivers.

Senator O’Ban explained that the bill had passed in the House during the Special Session and was now back in the Senate. He said that he felt confident that the bill would be passed in late June.

Foster Parent Bill of Rights

Ms. Jessica Hanna with the Foster Parents Association of Washington State shared her proposal for a Foster Parents Bill of Rights. She explained that she was motivated to create the proposal in response to the critical condition of foster care in Washington State. Ms. Hanna expressed concerns about the complexity and lengthiness of processes that foster parents must deal with, including termination of rights proceedings, conflicting interests of social workers and foster parents, and foster parent fears of retaliation.

The process for drafting this Bill of Rights began with Ms. Hanna connecting with foster parents on social media to gather feedback on their needs and concerns. She drafted the document, which she shared with the Commission, with support from Representative Dent and she is working with his office to create proposed legislation for the 2018 session.

Ms. Hanna then requested feedback from the Commission on the draft proposal. Ms. Malat expressed concerns about the rights and interests of children, which were not explicitly referenced in the document. Ms. Hanna agreed that those concerns were important and noted that she believed that foster youth also need a bill of rights. Mr. Murrey asked Ms. Hanna what other options she was engaging in to help resolve the concerns she had described. Ms. Hanna responded that she has been meeting with CA representatives and engaging with communities in regions like Kitsap County, but that she hoped this Bill of Rights would give her and other foster parents more negotiating power in those meetings and engagements. Ms. Moore than said that she agreed that foster parents certainly had unmet needs and that the proposal raised some good points, but that she had concerns about some of the provisions undermining the purpose of the system, which is ultimately to reunify families. Further discussion was continued.

New Business

Commission members were asked if there was any new or old business that should be discussed. Mr. Canfield shared with the Commission that FPAWS had just completed their annual conference. He noted that it was their biggest conference ever, having over 600 kids present and

providing 2,000 training hours. There will be another training session in September to accommodate more interested parties.

Adjourned at 3:40pm by Justice Bridge.